

## § 575.406

## 5 CFR Ch. I (1–1–16 Edition)

### § 575.406 Adjustment or termination of supervisory differential.

(a) An agency may establish procedures that allow for adjusting or terminating a supervisory differential at any time the agency determines it is appropriate to do so.

(b) A supervisory differential shall be terminated when the continuing pay of the supervisor (not including the supervisory differential) exceeds the continuing pay of the highest paid subordinate whose position is not under the General Schedule.

(c) A supervisory differential shall be reduced or terminated, as appropriate, when the continuing pay of the supervisor (including the supervisory differential) exceeds the continuing pay of the highest paid subordinate whose position is not under the General Schedule by more than 3 percent.

(d) The effective date of a reduction or termination of a supervisory differential under paragraph (b) or (c) of this section shall be not later than 30 calendar days after the date on which the event that necessitates the reduction or termination occurs.

(e) Each determination to adjust a supervisory differential shall be made in writing under procedures established by each agency similar to those established under § 575.404 of this part.

(f) The reduction or termination of a supervisory differential may not be appealed. However, the preceding sentence shall not be construed to extinguish or lessen any right or remedy under subchapter II of chapter 12 of title 5, United States Code, or under any of the laws referred to in 5 U.S.C. 2302(d).

[56 FR 20338, May 3, 1991, as amended at 57 FR 37394, Aug. 19, 1992]

### § 575.407 Records.

(a) Each agency shall keep a record of each determination required by §§ 575.404(a) and 575.406(e) of this part. Each record shall contain sufficient information to allow reconstruction of the action, including the basis for determining the amount of the differential and the comparison of continuing pay required by § 575.405(b) of this part.

(b) Each agency shall promptly submit a report of each determination

made to establish, adjust, or terminate a supervisory differential as a part of its regular submission to OPM's Central Personnel Data File.

### Subpart E—Extended Assignment Incentives

SOURCE: 68 FR 53669, Sept. 12, 2003, unless otherwise noted.

#### § 575.501 Purpose.

This subpart contains OPM regulations implementing 5 U.S.C. 5757, which authorizes the payment of extended assignment incentives. Subject to the requirements of this subpart, an agency may pay an extended assignment incentive to eligible Federal employees assigned to positions located in a territory or possession of the United States, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands who agree to complete a specified additional period of employment with the agency in that location.

#### § 575.502 Definitions.

In this subpart:

*Agency* means an “Executive agency,” as defined in 5 U.S.C. 105.

*Authorized agency official* means the head of an agency or an official who is authorized to act for the head of the agency in the matter concerned.

*Employee* means an employee of an agency who satisfies the definition of that term in 5 U.S.C. 2105.

*Involuntarily reassigned* refers to a reassignment initiated by an agency against an employee's will and without he employee's consent for reasons other than cause on charges of misconduct, delinquency, or inefficiency.

*Involuntarily separated* refers to a separation initiated by an agency against an employee's will and without the employee's consent for reasons other than cause on charges of misconduct, delinquency, or inefficiency. In addition, when an employee is separated because he or she declines to accept reassignment to another geographic area outside one of the covered locations, the separation is involuntary if the employee's position description or other written agreement does not provide for such reassignment. However, an employee's separation is not involuntary

if, after such a written mobility agreement is added, the employee accepts one reassignment outside his or her particular territory, possession, or commonwealth, but subsequently declines another reassignment. An employee's separation as a result of disability retirement, a disability that prevents an employee from continuing Federal service or is the basis for separation by the agency as determined by acceptable medical evidence, or the death of an employee is considered to be an involuntary separation.

*Rate of basic pay* means the rate of pay fixed by law or administrative action for the position held by an employee, including any special rate under 5 CFR part 530, subpart C; locality-based comparability payment under 5 CFR part 531, subpart F; or similar payment under other legal authority, but before deductions and exclusive of additional pay of any other kind. For example, a *rate of basic pay* may not include nonforeign area cost-of-living allowances under 5 U.S.C. 5941, night shift differentials under 5 U.S.C. 5343(f), or environmental differentials under 5 U.S.C. 5343(c)(4).

*Service agreement* means a written agreement between an agency and an employee under which the employee agrees to a specified period of employment with the agency in a particular territory, possession, or commonwealth in return for payment of an extended assignment incentive.

*Service period* means an agreed-upon period of employment an employee is obligated to complete under a service agreement.

*Territory, possession, or commonwealth* means a territory or a possession of the United States, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands.

[68 FR 53669, Sept. 12, 2003, as amended at 70 FR 25752, May 13, 2005; 72 FR 67841, Dec. 3, 2007]

**§ 575.503 Who may approve the payment of an extended assignment incentive?**

An authorized agency official must review and approve the offer of an extended assignment incentive for an employee, including the amount of such incentive. The authorized agency offi-

cial must be at a higher level than the official who made the initial decision to offer an extended assignment incentive, unless there is no official at a higher level in the agency.

**§ 575.504 What requirements must an agency satisfy before authorizing the payment of an extended assignment incentive?**

Before paying an extended assignment incentive under this subpart, an agency must establish an extended assignment incentive plan. This plan must include the following elements:

- (a) The designation of authorized agency officials who must review and approve the payment of extended assignment incentives;
- (b) The categories of employees which are prohibited from receiving an extended assignment incentive;
- (c) The criteria that must be met or considered in authorizing extended assignment incentives, including criteria for determining the size of an incentive;
- (d) The requirements governing service agreements, including the obligations of the agency and the employee when the service period is not completed;
- (e) The procedures for paying extended assignment incentives; and
- (f) Documentation and recordkeeping requirements sufficient to allow reconstruction of the action.

**§ 575.505 What criteria must an agency use to determine who will receive an extended assignment incentive?**

(a) An agency must base the payment of an extended assignment incentive on a written determination that—

- (1) The eligible employee has completed at least 2 years of continuous service immediately before the commencement of the service agreement in one or more civil service positions located in a particular territory, possession, or commonwealth;
- (2) It is in the best interest of the Government to encourage the employee to complete a specified additional period of employment with the agency in that location; and
- (3) Replacing the employee with another employee possessing the required qualifications and experience would be difficult.